IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 11154 of 2007(C)

AS.91/2004 of DISTRICT COURT, PATHANAMTHITTA
OS.260/1994 of SUB COURT, PATHANAMTHITTA

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PETITIONER:

VIJAYAKUMAR.T.,
VILAYILPUTHEN VEEDU,
KOTTAYAM.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

1. BHANU, AZHAKKOOTTATHUPUTHEN VEEDU, KOTTAYAM.

2. OMANA AMMA, AZHAKKOOTTATHUPUTHEN VEEDU, KOTTAYAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 11154 of 2007 C

JUDGMENT

Petitioner is the fourth defendant in O.S.No. 260/94 on the file of the Sub Court, Pathanamthitta. In execution of the decree in the said suit, it is submitted that the EP is posted to 4.4.2007. The grievance of the petitioner is that A.S.No.91/04 filed by him challenging the decree in O.S.No.260/94 happened to be dismissed for default by the District Court, Pathanamthitta; that he has filed Exhibit P3 petition for restoration and Exhibit P2 petition for condonation of delay of 264 days in filing the restoration application; that, according to him, there are ample chances for Exhibit P3 being allowed, condoning the delay vide Exhibit P2 petition and that, therefore, till orders are passed on Exhibits P2 and P3 petition, execution of the decree in O.S.No.260/94 be stayed.

2. Having considered the entire aspects of the matter, I am of the view that some relief has to be granted to the petitioner. In the result, I direct the District Judge, Pathanamthitta to pass appropriate orders on Exhibits P2 and P3 petitions filed in A.S.No.91/04 positively within two months from today. Till orders are so passed, execution of the decree in O.S.No.260/94 shall stand deferred by two months.

This writ petition is disposed of with the above directions.

30th March, 2007 (K.P.Balachandran, Judge)

tkv